

(SPACE BELOW FOR FILING STAMP  
ONLY)

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Attorneys for Plaintiff  
INTERSTATE FIRE & CASUALTY COMPANY,  
an Illinois corporation,

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

INTERSTATE FIRE & CASUALTY  
COMPANY, an Illinois corporation,

Plaintiff,

v.

PACIFIC EMPLOYERS INSURANCE  
COMPANY, a Pennsylvania  
corporation,

Defendant.

REPUBLIC WESTERN INSURANCE  
COMPANY, an Arizona corporation,

Plaintiff in  
Intervention,

v.

INTERSTATE FIRE & CASUALTY  
COMPANY, an Illinois corporation;  
PACIFIC EMPLOYERS INSURANCE  
COMPANY, a Pennsylvania  
corporation,

Defendants in  
Intervention.

Case No. EDCV06-0593 VAP (OPx)

**DECLARATION OF TODD W.  
BAXTER IN SUPPORT OF  
PLAINTIFF INTERSTATE FIRE &  
CASUALTY COMPANY'S  
MOTION TO RETAX COSTS**

Complaint Filed: June 6, 2006

Trial Date: None

Judge: Hon. Virginia A. Phillips

Date: August 31, 2009

Time: 10:00 a.m.

Ctrm: 2

**[Filed concurrently with: Notice of  
Motion; Memorandum of Points and  
Authorities]**

1 I, Todd W. Baxter, declare as follows:

2 1. I am a member of the law firm of McCormick, Barstow, Sheppard,  
3 Wayte & Carruth LLP, counsel herein for Plaintiff Interstate Fire & Casualty  
4 Company. I have personal knowledge of the facts contained herein and if called to  
5 testify would and could do so competently.

6 2. Pacific Employers Insurance Company did not furnish Interstate  
7 Fire & Casualty Company or its counsel with the copies of any documents it  
8 obtained by subpoena from the law firm of Varner & Brandt.

9 3. Pacific Employers Insurance Company did not furnish Interstate  
10 Fire & Casualty Company or its counsel with the copies of any documents it  
11 obtained by subpoena from the law firm of Greene, Broillet & Wheeler.

12 4. To the best of my knowledge, Pacific Employers Insurance Company  
13 did not furnish the court with any of the documents it obtained by subpoena from  
14 Varner & Brandt and Greene, Broillet & Wheeler.

15 5. On July 31, 2007, I took the depositions of Charles Norris and Douglas  
16 Bell, persons most knowledgeable for Republic Western Insurance Company.  
17 Interstate Fire & Casualty Company's purpose for taking these depositions was tied  
18 to its defense of Republic Western Insurance Company's Complaint in  
19 Intervention. Counsel for Pacific Employers Insurance Company did not attend in  
20 person, appearing by telephone instead.

21 6. At the deposition of Douglas Bell, Pacific Employers Insurance  
22 Company's attorneys did not ask any questions.

23 7. On Monday, August 3, 2009, our office received email notification of  
24 the July 31, 2009 order taxing costs in the amount of \$11,029.65. I was out of the  
25 office, however, on vacation until Tuesday afternoon, August 4, 2009 and was out  
26 of the office all day on Thursday, August 6, 2009. Following a review of our file  
27 and the ruling by the clerk of the court, it was decided that Interstate would file the  
28 motion to retax costs. In an attempt to meet and confer prior to the filing of the

1 motion, I contacted Pacific Employer's counsel Marilyn Rogers on Friday morning,  
2 August 7, 2009, but learned that she was out of the office on vacation from July 27,  
3 2009 through August 10, 2009. Ms. Rogers has been my main contact on behalf of  
4 Pacific Employers during this litigation. I requested to speak with Ramiro Morales,  
5 one of the other counsel for Pacific Employer's, however, he was not available. I  
6 left a message for Mr. Morales to call me back. Prior to the filing of this motion, he  
7 had not done so.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on August 7, 2009.

10  
11 /s/ Todd W. Baxter

Todd W. Baxter

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